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**2. Criminal Law (§ 884\*)—Verdict Imposing One Penalty for Two Offenses Held Improper in Form, But Sufficient in Substance.**—In a prosecution for illegal sale and for illegal transportation of intoxicating liquors, where the jury returned a verdict of guilty on both counts, but stated the penalty for both offenses together, the penalty fixed for both crimes not exceeding the maximum which might have been imposed for either, the verdict was improper in form, but sufficient in substance.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 617.]

Error to Circuit Court, Wythe County.

P. Ellis Jennings was convicted of illegally selling and transporting ardent spirits, and he brings error. Affirmed.

*Robert Sayers* and *S. B. Campbell*, both of Wytheville, for plaintiff in error.

*John R. Saunders, Atty. Gen.*, and *J. D. Hank, Jr., Asst. Atty. Gen.*, for the Commonwealth.

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FLANARY *v.* COMMONWEALTH.

June 20, 1922.

[112 S. E. 604.]

**1. Indictment and Information (§ 202 (7)\*)—Objection No Date of Offense Was Stated Must Be Raised before Verdict.**—Under Code 1919, § 4879, providing that the judgment in any criminal case shall not be arrested or reversed on objection to the indictment or other accusation' after verdict, unless it be in violation of the Constitution, the objection that no date of the offense was stated in the information was not based on any constitutional right, but was a defect which could have been cured by amendment, under section 4876 so that it comes too late when first made after the verdict.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 450.]

**2. Indictment and Information (§ 194\*)—Constitutional Right to Demand Nature of Accusation Can Be Restricted to Require Demand before Verdict.**—The constitutional right of accused to demand the cause and nature of accusation against him cannot be taken from him, but the Legislature can fix a period in the prosecution after which the demand cannot be made, so long as it gives accused full and fair opportunity of asserting his right, and Code 1919, § 4879, requiring the assertion of such right before verdict, is valid.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 385.]

Error to Circuit Court, Scott County.

Nathan Flanary was convicted of unlawfully transporting ardent spirits, and he brings error. Affirmed.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

*W. S. Cox*, of Gate City, for plaintiff in error.

*John R. Saunders, Atty. Gen.*, and *J. D. Hank, Jr., Asst. Atty. Gen.*, for the Commonwealth.

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SIKLEK *v.* COMMONWEALTH.

June 15, 1922.

[112 S. E. 605.]

**1. Indictment and Information (§ 10\*)—Indictment Held Not Invalid because Founded on Evidence Given by Defendant before a Grand Jury.**—Where defendant went before a grand jury as a witness to testify against another, and, without being coerced or warned of his right to refuse to answer any questions or to give information that would tend to incriminate him, voluntarily gave such evidence that he was jointly indicted with the other, the indictment was not invalid, since, by defendant's testifying without objection, he is deemed to have waived his constitutional right relating to self-incrimination and to have testified voluntarily.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 198.]

**2. Indictment and Information (§ 11\*)—Proof to Sustain Indictment Cannot Be Inquired into.**—The sufficiency of proof cannot be inquired into to invalidate an indictment founded by a lawfully constituted grand jury, since the presumption is that every indictment is found on proper evidence.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 757.]

**3. Grand Jury (§ 36\*)—Grand Jury Has No Power to Compel a Witness to Testify.**—A grand jury has no power to compel a witness to testify, but only the court can exercise such compulsion, and, if one declines to answer any question of a grand jury which he thinks will incriminate him, the grand jury can only report the matter to the court for proper action.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 761.]

Error to Corporation Court of Newport News.

Max Siklek was convicted of grand larceny, and he brings error. Affirmed.

*J. Louis Morewitz*, of Newport News, for plaintiff in error.

*John R. Saunders, Atty. Gen.*, for the Commonwealth.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.